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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,437	03/15/2004	Willie E. Willis	MOE154	8954
30245	7590	12/15/2004	EXAMINER	
ANTHONY EDW. J CAMPBELL PO BOX 160370 AUSTIN, TX 78716			LU, JIPING	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

as

Office Action Summary	Application No. 10/800,437	Applicant(s) WILLIS, WILLIE E.	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 4, 12 and 18-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/26/2004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-9, 10-11, 13-15, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tseng (U. S. Pat. 6,321,640) in view of Slattery (U. S. Pat. 4,508,096) or Deichler, Jr. (U. S. Pat. 6,708,604).

Tseng shows a portable barbecue pit comprising a grill grate 42, a lid 51, a lid support 561, a handle 55, grill fastener 38, a plurality of sidewalls 32, 33, 34 and a plurality of doors 312 which are arranged as claimed. However, Tseng does not show a plurality of handles. Slattery teaches a portable cooker having a lid with a plurality of handles 30 same as claimed. Deichler, Jr. teaches a portable oven having a lid with a plurality of handles 56 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide lid of the portable barbecue pit of Tseng with a plurality of handles as taught by Slattery or Deichler, Jr. in order to facilitate the moving of lid. With regard to claims 6, 15, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use steel or aluminum or titanium as barbecue pit material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. With regard to claims 7, 14, it would have been an obvious matter of design

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choice to design the frame in tubular shape, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as a design consideration within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1966). With regard to claim 8, it would have been an obvious matter of design choice to design the barbecue pit with any desired size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). With regard to the claimed hasps, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use hasps as latches, since the examiner takes Official Notice of the equivalence of hasps and stem 38 for their use in the fastening art and the selection of any of these known equivalents to fasten grill to the pit wall would be within the level of ordinary skill in the art.

Allowable Subject Matter

3. Claims 4, 12 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

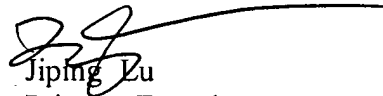
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.